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# A BILL FOR AN ACT

RELATING TO INDUSTRIAL HEMP.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. The legislature finds that Act 228, Session  
2 Laws of Hawaii 2016, established an industrial hemp pilot  
3 program to authorize the cultivation of industrial hemp and  
4 distribution of its seed in Hawaii through limited activities by  
5 licensee-agents of the board of agriculture for purposes of  
6 agricultural or academic research. On December 20, 2018, the  
7 Agriculture Improvement Act of 2018, informally known as the  
8 "Farm Bill", was signed into law, and included the removal of  
9 industrial hemp from the schedule I controlled substance list,  
10 thus legalizing it and paving the way for a successful hemp  
11 industry in Hawaii.

12       The purpose of this Act is to authorize the department of  
13 agriculture to permanently establish an industrial hemp program  
14 to license individuals to cultivate industrial hemp in the  
15 State.



1       SECTION 2. Chapter 141, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4               "PART       .   INDUSTRIAL HEMP PROGRAM

5       §141-A Definitions. As used in this part:

6       "Chairperson" means the chairperson of the board of  
7 agriculture or the chairperson's designee.

8       "Cultivar" means a variety of industrial hemp.

9       "Department" means the department of agriculture.

10       "Industrial hemp" means the plant *Cannabis sativa* L. and  
11 any part of that plant, including the seeds thereof and all  
12 derivatives, extracts, cannabinoids, isomers, acids, salts, and  
13 salts of isomers, whether growing or not, with a delta-9  
14 tetrahydrocannabinol concentration of not more than 0.3 percent  
15 on a dry weight basis, or a tetrahydrocannabinol concentration  
16 that is allowed by federal law, whatever is greater.

17       "Retail" means the sale of goods to the public in  
18 relatively small quantities for use or consumption and not for  
19 the purpose of processing into other products for eventual  
20 resale.



1 "Variety" means a group of individual plants that exhibit  
2 the same observable physical characteristics or have the same  
3 genetic composition.

4 §141-B Industrial hemp program; established. The  
5 department shall establish an industrial hemp program to  
6 authorize licensed individuals to cultivate industrial hemp in  
7 the State.

8 §141-C Licensing. (a) A person who intends to grow  
9 industrial hemp in the State shall apply to the department for a  
10 license on a form prescribed by the department. The application  
11 shall include:

12 (1) The applicant's name, mailing address, and phone  
13 number in the State;

14 (2) The legal description of the land on which the  
15 industrial hemp is to be grown; and

16 (3) Any other information required by the department.

17 (b) An applicant shall be ineligible for a license if the  
18 applicant or any partner, director, or member of the applicant  
19 has been convicted of any felony within the ten years  
20 immediately preceding submission of the application and the  
21 conviction is related to the possession, production, sale, or



1 distribution of a controlled substance in any form in the United  
2 States or any other country.

3 (c) The cultivation of industrial hemp in accordance with  
4 this part shall be limited to lands situated within the state  
5 agricultural land district.

6 (d) An applicant shall either be the fee simple owner of  
7 the property to be used to grow industrial hemp, or have a  
8 written statement from the fee simple owner indicating that the  
9 applicant is a lessee or legal occupant and that the owner  
10 consents to the growing of industrial hemp on the property.

11 (e) An application for a new or renewed license, whether  
12 under the same or different name of a previous or current  
13 licensee, shall not be approved if the applicant or any  
14 authorized representative thereof has been subject to a civil  
15 penalty or disciplinary sanction under this chapter.

16 (f) An applicant shall be prohibited from reapplying for a  
17 license under this part for one calendar year from the date of  
18 denial if the application is denied for any reason, including:

19 (1) Incomplete information;

20 (2) Development of a plan that violates program rules or  
21 any existing law regarding hemp;



(3) Prior revocation of a license due to failure to sign and return a licensing agreement within two weeks from when the agreement was sent to the applicant; and

(4) Failure to comply with any laws, rules, or conditions relating to the applicant's existing license.

(g) Each applicant shall submit an application fee. If the fee does not accompany the application, the application for a license shall be deemed incomplete.

(h) Each license shall be valid for one year from the date of issuance, after which the licensee shall be required to renew the license and pay the renewal fee.

(i) If the chairperson determines that the requirements for a license pursuant to this part, and any other requirements established by rule, are satisfied, the chairperson may issue a license to the applicant.

(j) The chairperson may limit the number of licenses issued annually under this part and implement standards for selecting licensees as prescribed by rules adopted without regard to chapter 91. The chairperson may also limit the number of licenses due to limited program resources.



1           (k) The chairperson may set maximum acreage limits for the  
2 industrial hemp program without regard to chapter 91.

3           (l) The department may prescribe sampling, inspection, and  
4 reporting requirements for licensees.

5           (m) Any license issued under the industrial hemp pilot  
6 program shall have continued validity under the original terms  
7 and conditions of that license.

8           (n) For the effective period of the license, any  
9 agricultural land used for the cultivation of industrial hemp in  
10 accordance with this part shall:

11           (1) Qualify for the minimum dedication period; and

12           (2) Be assessed at the lowest percentage of fair market  
13 value or other calculation provided for by ordinance.

14           (o) The cultivation of industrial hemp in accordance with  
15 this part shall qualify as an agricultural product, use, and  
16 activity by each relevant county for the effective period of the  
17 license.

18           **§141-D Approved cultivars.** A licensee shall only grow  
19 varieties of industrial hemp that are on the list of approved  
20 cultivars created by the chairperson. The chairperson may from



1 time to time add or remove any cultivar from the list if the  
2 cultivar is found to be noncompliant with this part.

3       **§141-E Inspections; fees.** (a) A licensee shall permit  
4 federal, state, or local authorities to inspect and sample the  
5 industrial hemp growing area, plants, plant materials, seeds,  
6 equipment, or facilities incident to the growth or production of  
7 industrial hemp.

8       (b) Any member of the department, or any agent or third  
9 party authorized by the department, may enter at reasonable  
10 times upon any private property in order to inspect and sample  
11 the industrial hemp growing area, plants, plant materials,  
12 seeds, equipment, or facilities incident to the growth or  
13 production of industrial hemp.

14       (c) The department may set inspection and sampling fees.

15       (d) The department may employ temporary inspectors to  
16 assist in certification, audit, and inspection services under  
17 this part.

18       (e) A licensee shall reimburse the department or the third  
19 party laboratory authorized by the department to perform testing  
20 for the program for any costs incurred for the sample collection  
21 and laboratory analysis of samples collected from the licensee.



1       §141-F Violations. (a) Unprocessed cannabis material,  
2 including dried flowers and resin, shall not be sold at retail  
3 unless authorized by a state cannabis dispensing program.

4       (b) In addition to any other violations of this part, the  
5 following acts and omissions by any licensee or authorized  
6 representative thereof constitute violations:

7       (1) Refusal or failure by a licensee or authorized  
8 representative to fully cooperate and assist the  
9 department with the inspection or sampling process;

10       (2) Failure to provide any information required or  
11 requested by the department for purposes pursuant to  
12 this part;

13       (3) Providing false, misleading, or incorrect information  
14 pertaining to the licensee's cultivation of industrial  
15 hemp to the department by any means, including  
16 information provided in any application form, report,  
17 record, or inspection required or maintained pursuant  
18 to this part;

19       (4) Growing industrial hemp that when tested is shown to  
20 have a delta-9 tetrahydrocannabinol concentration  
21 greater than 0.3 per cent on a dry weight basis or a





1           tetrahydrocannabinol concentration greater than  
2           allowed by federal law, whichever is greater;

3           (5) Failure to pay fees assessed by the department for  
4           inspection or laboratory analysis costs; or

5           (6) Any violation of any other state or federal law or  
6           regulation regarding industrial hemp.

7           (c) For any violation of this part, the department may  
8           impose civil penalties up to \$500 and disciplinary sanctions,  
9           including denial or revocation of a license, provided that:

10          (1) If the department determines that a licensee has  
11          negligently violated this part, the licensee shall  
12          comply with a corrective action plan established by  
13          the department to correct the violation, which may  
14          include disposal of any industrial hemp crop, plant,  
15          plant material, or seed, whether growing or not, and  
16          products derived from those plants; and

17          (2) Any applicant that materially falsifies any  
18          information contained in an application shall be  
19          ineligible to participate in the industrial hemp  
20          program.



1       §141-G Rules. (a) The department shall adopt rules  
2 pursuant to chapter 91 for the purposes of this part, which  
3 shall include at a minimum:

4       (1) Inspection and sampling requirements of any industrial  
5 hemp during growth or after harvest to determine  
6 tetrahydrocannabinol levels;

7       (2) Licensure requirements;

8       (3) Reporting requirements; provided that pre-planting and  
9 movement reporting shall not be required;

10      (4) A process to set a limit for the number of licenses  
11 issued annually and create standards for selecting  
12 licensees;

13      (5) Assessment of fees for application, licensing,  
14 inspecting, and sampling industrial hemp cultivation;

15      (6) A procedure for the disposal of industrial hemp crop,  
16 plant, plant material, or seed, whether growing or  
17 not, found to be in violation of this part, and  
18 products derived from those plants;

19      (7) Penalties for any violation; and

20      (8) Any other rules and procedures necessary to carry out  
21 this part.



1 (b) The department may repeal any rules currently in place  
2 pursuant to the industrial hemp pilot program, and any repeal  
3 shall be exempt from chapters 91 and 201M.

4 (c) The department may adopt and amend interim rules,  
5 which shall be exempt from chapters 91 and 201M, to effectuate  
6 the purposes of this part; provided that any interim rules shall  
7 only remain in effect until July 1, 2025, or until rules are  
8 adopted pursuant to subsection (a), whichever occurs sooner.

9 **§141-H Authority to cease operations.** Notwithstanding any  
10 other provision of this part to the contrary, the chairperson  
11 shall have the authority to cease operations and issuance or  
12 renewal of any license, and terminate the industrial hemp  
13 program, in order to effectuate any other federal or state  
14 industrial hemp regulatory program; provided that any license  
15 that has been issued as of that time shall remain in effect  
16 until its expiration.

17 **§141-I Industrial hemp special fund; established.** (a)  
18 There is created in the state treasury a special fund to be  
19 designated as the industrial hemp special fund to be  
20 administered by the department of agriculture. Moneys deposited



1 in the special fund shall be used to fulfill the purposes of  
2 this part and shall include:

3 (1) Any moneys appropriated by the legislature to the  
4 special fund;

5 (2) Any fees collected by the department in relation to  
6 the industrial hemp pilot program or industrial hemp  
7 program; and

8 (3) The interest or return on investments earned from  
9 moneys in the special fund.

10 (b) The department of agriculture may use the moneys in  
11 the special fund to carry out the purposes of this part,  
12 including hiring employees, specialists, and consultants  
13 necessary to complete projects related to the purposes of this  
14 part."

15 SECTION 3. Chapter 141, Hawaii Revised Statutes, is  
16 amended by adding two new sections to part II to be  
17 appropriately designated and to read as follows:

18 "§141- Limit on number of licenses issued annually.

19 The chairperson or the chairperson's designee may limit the  
20 number of licenses issued annually under the industrial hemp  
21 pilot program.



1        §141-        Maximum acreage limits.    The chairperson or the  
2 chairperson's designee may set, without regard to chapter 91,  
3 maximum acreage limits for the industrial hemp pilot program."

4        SECTION 4.    Chapter 712, Hawaii Revised Statutes, is  
5 amended by adding a new section to part IV to be appropriately  
6 designated and to read as follows:

7        "§712-        Industrial hemp program.    The possession,  
8 cultivation, sale, receipt, or transfer of industrial hemp as  
9 authorized under the permanent program established under  
10 part        of chapter 141 shall not constitute an offense under  
11 this part."

12        SECTION 5.    Section 141-38, Hawaii Revised Statutes, is  
13 amended to read as follows:

14        "[+]§141-38[+]    Violations.    In addition to any other  
15 violations of this part, the following acts and omissions by any  
16 licensee or authorized representative thereof constitute  
17 violations for which civil penalties up to \$500 and disciplinary  
18 sanctions, including revocation of a license, may be imposed by  
19 the chairperson [+] or the chairperson's designee:



- 1 (1) Refusal or failure by a licensee or authorized  
2 representative to fully cooperate and assist the board  
3 with the inspection process;
- 4 (2) Failure to provide any information required or  
5 requested by the board for purposes pursuant to this  
6 part;
- 7 (3) Providing false, misleading, or incorrect information  
8 pertaining to the licensee's cultivation of industrial  
9 hemp to the chairperson or the chairperson's designee  
10 by any means, including but not limited to information  
11 provided in any application form, report, record, or  
12 inspection required or maintained pursuant to this  
13 part;
- 14 (4) Growing industrial hemp that when tested is shown to  
15 have a delta-9 tetrahydrocannabinol concentration  
16 greater than 0.3 per cent on a dry weight basis or a  
17 tetrahydrocannabinol concentration allowed by federal  
18 law, whichever is greater;
- 19 (5) Failure to pay fees assessed by the chairperson or the  
20 chairperson's designee for inspection or laboratory  
21 analysis costs; or



(6) Possessing, outside of a field of lawful cultivation, resin, flowering tops, or leaves that have been removed from the hemp plant; provided that ~~[the]~~:

(A) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales ~~[that result from the normal and appropriate processing of industrial hemp]~~;  
and

(B) Transportation in a department-approved manner of the resin, flowering tops, and leaves of a licensee's crop that passed department-ordered compliance testing to another site for processing,

shall not apply to this paragraph."

SECTION 6. Section 141-39, Hawaii Revised Statutes, is amended to read as follows:

"~~[§]141-39[§]~~ **Profits.** The board shall forego any income or profit that licensees lawfully obtain through the disposition of the licensees' industrial hemp crop; provided that the licensee reports to the board, as required by this part:



1       ~~[(1) Any movement of the licensee's industrial hemp plants,~~  
2           ~~plant materials, or seeds outside the licensed growing~~  
3           ~~area;~~

4       ~~(2)]~~ (1) Any sale of or benefit received in exchange for  
5           the licensee's industrial hemp plants, plant  
6           materials, or seeds; and

7       ~~[(3)]~~ (2) Any commercial details of ~~[such movement,]~~ the  
8           sale~~[-]~~ or exchange for use by the board to research  
9           the marketability and logistical production of  
10          industrial hemp in the State."

11       SECTION 7. Section 141-41, Hawaii Revised Statutes, is  
12       repealed.

13       ~~["[§141-41] Industrial hemp special fund; established.~~

14       ~~(a) There is created in the state treasury a special fund to be~~  
15       ~~designated as the industrial hemp special fund to be~~  
16       ~~administered by the department of agriculture. Moneys deposited~~  
17       ~~in this special fund shall be used to fulfill the purposes of~~  
18       ~~this part and shall include:~~

19       ~~(1) Any moneys appropriated by the legislature to the~~  
20       ~~special fund;~~





~~(2) Any fees collected by the department of agriculture in  
relation to the industrial hemp pilot program; and  
(3) The interest or return on investments earned from  
moneys in the special fund.~~

~~(b) The department of agriculture may use the moneys in  
the special fund to carry out the purposes of this part,  
including hiring employees, specialists, and consultants  
necessary to complete projects related to the purposes of this  
part."]~~

SECTION 8. All unencumbered funds remaining in the  
industrial hemp special fund established pursuant to 141-41,  
Hawaii Revised Statutes, shall be deposited into the industrial  
hemp special fund established pursuant to 141-I, Hawaii Revised  
Statutes.

SECTION 9. The chairperson of the board of agriculture may  
prepare and submit, to the United States Secretary of  
Agriculture, a proposed state plan to monitor and regulate hemp  
production in the State, pursuant to Section 297B of the  
Agricultural Marketing Act of 1946, as amended.

SECTION 10. There is appropriated out of the general  
revenues of the State of Hawaii the sum of \$                      or so



1 much thereof as may be necessary for fiscal year 2019-2020 and  
2 the same sum or so much thereof as may be necessary for fiscal  
3 year 2020-2021 to be deposited into the industrial hemp special  
4 fund established pursuant to 141-I, Hawaii Revised Statutes.

5 SECTION 11. There is appropriated out of the industrial  
6 hemp special fund established pursuant to 141-I, Hawaii Revised  
7 Statutes, the sum of \$ or so much thereof as may be  
8 necessary for fiscal year 2019-2020 and the same sum or so much  
9 thereof as may be necessary for fiscal year 2020-2021 to be  
10 allocated as follows:

11 (1) \$ for the establishment of one full-time  
12 equivalent (1.0 FTE) program coordinator position;

13 (2) \$ for the establishment of two full-time  
14 equivalent (2.0 FTE) specialist positions; and

15 (3) \$ for administrative costs of the industrial  
16 hemp program.

17 The sums appropriated shall be expended by the department  
18 of agriculture for the purposes of this Act.

19 SECTION 12. In codifying the new sections added by section  
20 2 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 13. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 14. This Act shall take effect on July 1, 2050;  
6 provided that:

7 (1) Sections 7 and 8 shall take effect on June 30, 2052;  
8 and

9 (2) Section 3 shall be repealed on June 30, 2021, to  
10 coincide with the repeal of the industrial hemp pilot  
11 program on June 30, 2021, pursuant to Act 228, Session  
12 Laws of Hawaii 2016.



**Report Title:**

Industrial Hemp Program; HDOA; Industrial Hemp Pilot Program;  
Appropriation

**Description:**

Authorizes the Department of Agriculture to establish the industrial hemp program. Repeals the industrial hemp special fund under section 141-41, HRS, when the industrial hemp pilot program is repealed on 6/30/2021. Authorizes the chairperson of the board of agriculture to submit to the United States Secretary of Agriculture a proposed state plan to monitor and regulate hemp production. Effective 7/1/2050. Appropriates funds. (SD3)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

